

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AUTHORIZING EXECUTION OF THE PROGRAM SUPPLEMENT
AGREEMENT NO. M 001 TO ADMINISTERING AGENCY-STATE
AGREEMENT NO. 04-5314 FOR BERRYESSA CREEK TRAIL,
REACH 3, PROJECT NO. 5074**

WHEREAS, the City of Milpitas is eligible to receive \$375,000 in Federal funding for Berryessa Creek Trail, Reach 3 Project No. 5074; and

WHEREAS, Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements and/or Fund Transfer Agreements need to be executed with the California Department of Transportation before such funds could be claimed; and

WHEREAS, said procedures established by the California Department of Transportation require the Applicant's Governing Body to certify by resolution the approval of the Program Supplement Agreement before submission of said Program Supplement Agreement to the California Department of Transportation; and

WHEREAS, the City of Milpitas wishes to delegate authorization to execute the Program Supplemental Agreement and any amendments thereto to the City Manager who will be authorized to execute all Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements, Fund Transfer Agreements and any amendments thereto with the California Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas as follows:

1. Authorizes execution of Program Supplemental Agreement No. M 001 to Administering Agency-State Agreement for Federal-Aid Projects No. 04-5314 which was entered into on 6-4-02; and
2. Accepts and will comply with the Special covenants or Remarks set forth in the Program Supplemental Agreement; and
3. Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, Applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

PASSED AND ADOPTED this 20th day of January, 2004, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

PROGRAM SUPPLEMENT NO. M001
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO. 04-5314

Date: November 25, 2003
Location: 04-SCL-0-MPS
Project Number: STPLER-5314(001)
E.A. Number: 04-923905

This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 06/04/02 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. , approved by the Administering Agency on (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by State of any funds derived from sources noted below obligated to this project, the Administering Agency accepts and will comply with the Special covenants or Remarks set forth on the following pages.

PROJECT LOCATION:

Trail along Berryessa Crk from N. Abel St to Gill Park/Town Center(between Santa Rita & Hillview Dr)

TYPE OF WORK: Pedestrian and Bike Path

LENGTH: 0 (MILES)

Estimated Cost	Federal Funds	Matching Funds		
	BTB0	LOCAL		OTHER
\$511,000.00	\$375,000.00	\$136,000.00	\$0.00	\$0.00

CITY OF MILPITAS

STATE OF CALIFORNIA
Department of Transportation

By _____

By _____

Date _____

Chief, Office of Project Implementat
Division of Local Assistance

Attest _____

Date _____

Title _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer: MM Monge Date 12-1-03 \$375,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT
379	2002	2660-102-890	2002-2003	20.30.010.827	C	262042	892-F	375,000.00

STPLER-5314(001)

SPECIAL COVENANTS OR REMARKS

1. This PROJECT is programmed to receive Federal Transportation Enhancement Activities (TEA) fund. The ADMINISTERING AGENCY agrees that any functional or operational change to a TEA PROJECT, before, during or after PROJECT acquisition and/or construction, that does not comply with, or is in conflict with, the TEA program requirements and the original purpose of the project at the time it was programmed may render the PROJECT ineligible for Federal reimbursement and ADMINISTERING AGENCY may be required to reimburse STATE the entire amount of TEA funds contributed to the project or the value of the TEA fund contribution, based upon the fair market value of the acquisition and/or construction, at the time the conflict and/or non-compliance is determined, whichever is greater.
2. All project repair, replacement and maintenance involving the physical condition and the operation of project improvements referred to in Article III MAINTENANCE, of the aforementioned Master Agreement will be the responsibility of the ADMINISTERING AGENCY and shall be performed at regular intervals and as required for efficient operation of the completed project improvements.
3. The ADMINISTERING AGENCY will reimburse the STATE for the ADMINISTERING AGENCY share of costs for work requested to be performed by the STATE.
4. The ADMINISTERING AGENCY agrees that payment of Federal funds will be limited to the amounts approved by the Federal Highway Administration (FHWA) in the Federal-Aid Project Authorization/Agreement or Amendment/Modification (E-76) and accepts any resultant increases in ADMINISTERING AGENCY funds as shown on the Finance Letter, any modification thereof as approved by the Division of Local Assistance, Office of Project Implementation.
5. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available for new phase(s) of work by future Federal obligations will be encumbered on this PROJECT by use of a STATE approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

STPLER-5314(001)

SPECIAL COVENANTS OR REMARKS

6. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).
7. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the most current published Local Assistance Procedures Manual.
8. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:

Department of Transportation
Division of Accounting
Local Programs Accounting Branch, MS#33
P. O. Box 942874
Sacramento, CA 94274-0001

Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual and LPP 01-06.

9. The ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act and OMB A-133 if it receives a total of \$300,000 or more in federal funds in a single fiscal year. The federal funds received under this project are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205, Highway Planning & Research. OMB A-133 superceded OMB A-128 in 1996. A reference to OMB A-128 in a Master Agreement (if any) is superceded by this covenant to conform to OMB A-133.

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to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO. 04-5314

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Division of Local Assistance

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Accounting Officer

M. Mongan

Date 12-1-03

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